IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

W.P.(C).No.13144 of 2007(M)

PETITIONER:-

JESSY VARGHESE, AGED 60 YEARS,
W/O VARGHESE, CHAKKUPURACKKAL, PERUMPATTY,
MALLAPPALLY. (REP.BY MOTHER AND POWER OF ATTORNEY
HOLDER SMT.THANKAMMA CHACKO,CHAKKUPURACKKAL,
PERUMPATTY, MALLAPPALLY).

BY ADV. SRI.P.HARIDAS

RESPONDENTS:-

1. SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

2. DY.S.P., THIRUVALLA.

3. CIRCLE INSPECTOR OF POLICE, MALLAPPALLY.

4. SUB INSPECTOR OF POLICE, PERUMPATTY.

5. C.N.MATHEW,
S/O NAINAN, KALLUKUZHIYIL HOUSE,
PERUMPETTY VILLAGE, MALLAPPALLY TALUK, PATHANAMTHITTA.

6. BIJU YOHANNAN @ LONACHAN,
MADATHINKAL, PERUMPETTY, MALLAPPALLY.

7. JOHNY, S/O KURUVILA, KAKKAMALA,
PERUMPETTY, MALLAPPALLY.

R1 TO R4 BY GOVERNMENT PLEADER SRI.SALIM P.A.
R5 BY ADV. SRI.M.K.CHANDRA MOHANDAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.13144 OF 2007-M

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE COPY OF THE ORDER IN I.A.NO.1293/04 IN W.A.NO.826/04 DATED 23/4/2004 BEFORE THE HON'BLE COURT.

EXT.P2 - TRUE COPY OF THE JUDGMENT IN O.S.NO.397/02 DATED 8/2/2007 IN THE MUNSIFF COURT, RANNY.

EXT.P3 - TRUE COPY OF THE DECREE DATED 8.2.2007 IN THE MUNSIFF COURT, RANNY.

EXT.P3(a) - TRUE COPY OF THE PLAN APPENDED TO THE DECREE.

EXT.P4 - TRUE COPY OF THE REPRESENTATION DATED 04/04/2005 BY THE PETITIONER SUBMITTED BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:-
--- NIL.

- TRUE COPY -

K.Balakrishnan Nair & Harun-Ul-Rashid, JJ.

W.P.(C).No.13144 of 2007-M

Dated, this the 20th day of August, 2007

JUDGMENT

Balakrishnan Nair,J.

The petitioner is working abroad. This writ petition is filed through her mother, the Power of Attorney Holder. She is having 80 cents of land in Perumpatty Village in Pathanamthitta District. When there was threat of trespass from respondents 5 to 7, she moved an obtained Exhibit P2 judgment and Exhibit P3 decree against them. The decree demarcates the boundary of her property. Exhibit P3(a) sketch attached to the decree shows the demarcation of boundary. By the decree, the defendants therein, who are respondents 5 to 7 herein, have been restrained from trespassing into the property or cutting and removing trees.

2. Now it is submitted by the petitioner that the party respondents are trying to cut and remove the valuable trees in the property of the petitioner in violation of the judgment of the Munsiff's Court and, therefore, she seeks protection for enjoyment of the property and for restraining the respondents from cutting and removing the valuable trees from the property. Claiming this relief, she has moved the District Superintendent of Police by filing Ext.P4 representation dated 9th April, 2007. Thereafter the writ petition is filed seeking the following relief:

> "(i) Issue a writ in the nature of mandamus or any other appropriate writ order or direction commanding the respondents 1 to 4 to grant adequate protection for the properties of the petitioner and

her parents and also to render effective protection to the life of the petitioner, parents and their employees"

3. If the order of injunction is violated and damage or waste is caused, the petitioner has remedies before the competent civil and criminal Courts. Police protection for anticipated violation of civil Court's injunction order cannot be granted. Though in the relief portion of the writ petition the petitioner has prayed for protection for her life and her parents, there is no such prayer in Exhibit P4. Further, the petitioner, who is abroad, cannot be physically harmed by the party respondents.

4. In the result, we feel that no mandamus should be issued to the police. But, this does not mean that the petitioner is not entitled to get protection to her property or life of her parents. If anything untoward happens, she can move the police as well as other forums for appropriate reliefs.

The writ petition is disposed of as indicated above.

K.Balakrishnan Nair
Judge

Harun-Ul-Rashid
Judge

vku/-